

REMARKS

In ¶ 1 of the office action, the Examiner has invited the Applicant to amend the specification to include a reference to prior Application Serial No. 10/150,714 filed on May 17, 2002, which the Applicant has now done. The Applicant respectfully submits that no petition is required because the claim for priority was made at the time this application was filed, the priority claim appearing in Section 1 on page 1 of the New Application Transmittal (which documents contains sections corresponding to the sections of an Application Data Sheet). The Applicant further notes that the Filing Receipt mailed on June 1, 2004 acknowledged the Applicant's claim for domestic priority, which acknowledgement was made within the four month period prescribed by 37 CFR § 1.78(a)(2)(ii). Therefore the Applicant respectfully requests that the specification be amended, as proposed above, to include the required claim for priority.

In ¶ 3 of the action, claims 4-7, 9 and 10 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,448,807 to Herrington, Jr. The Applicant traverses this ground for rejection for the following reasons.

The Herrington '807 patent discloses that it was known (prior to Herrington's invention) to make slider end stops by deforming and fusing the zipper material alone. The invention disclosed in Herrington '807 involves the addition of straps which are folded over the profiled ends of the zipper strips and

sealed thereto to form a fused mass. In discussing the disadvantage of the prior art, the Herrington '807 patent states that "in U.S. Pat. Nos. 5,088,971 and 5,131,121 . . . the end stops were formed solely by fusing the ends of the profile elements in the zipper and thus the amount of material available for forming the end stops and sealing the profile elements of the zipper was limited to the material in the zipper elements." [See Herrington '807, col. 4, lines 35-40.]

Applicant's independent claim 4 has been amended to clarify that the zipper parts are fused in respective areas to form respective slider end stops "without the fusion or joinder of additional material". This is precisely what the Herrington '807 patent states his invention does not do. Accordingly, it is believed that amended claim 4, and claims 5-7, 9 and 10 dependent thereon, are not anticipated by the Herrington '807 patent.

In ¶ 4 of the action, claims 4-10, 19-23, and 28-33 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,161,286 to Herrington, Jr. The Applicant traverses this ground for rejection for the following reasons.

Like the Herrington '807 patent, the Herrington '286 patent involves the folding and fusing of straps onto the profiled ends of the zipper strips to form slider end stops. Like Applicant's claim 4, independent claims 28 and 29 have also been amended to recite that the slider end stops are formed without the fusion or joinder of additional material. Accordingly, independent

claims 4, 28 and 29, and claims dependent thereon, are not anticipated by Herrington '286 for the same reason, set forth above, that claim 4 is not anticipated by Herrington '807.

Furthermore, the teaching of the Herrington '286 patent differs in that the profiled ends of the zipper straps and the U-shaped straps are not fused into a mass, as is clear from Figures 2 and 10 of the Herrington '286 patent, which show that the zipper profiles have not been deformed during the attachment of the slider end stop strap 30. All of Applicant's independent claims, including independent claim 19, recite that the material of the zipper strips is deformed and fused. As plainly visible in Figures 2 and 10 of the Herrington '286 patent, the zipper strips are not deformed and fused. In fact, the only element that is deformed ultrasonically is the end of the rivet 30a. As disclosed in col. 4, lines 39-46, of the Herrington '286 patent:

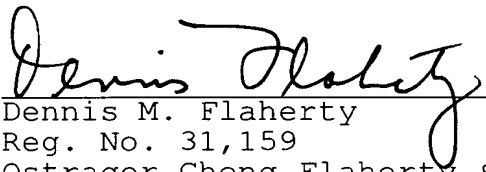
In the first operation, the clamp 30 is snapped over the profile, then in a second operation a head is formed on the end of the pin 30a by pressure, heat or ultrasonic melting so as to form a head which is locked into the opening 30b. Thus it will be seen that the two elements of the clamp 30 are held to each other and not to the bag itself, and the clamp 30 performs as a structural member independent of the film.

Accordingly, the Applicant respectfully submits that none of amended independent claims 1, 19, 28 and 29 is anticipated by the Herrington '286 patent.

In view of the foregoing, the Applicant submits that this application is now in condition for allowance. Reconsideration of the application and allowance of claims 4-10, 19-23, and 28-33 are hereby requested.

Respectfully submitted,


April 12, 2005
Date


Dennis M. Flaherty
Reg. No. 31,159
Ostrager Chong Flaherty &
Broitman P.C.
250 Park Avenue, Suite 825
New York, NY 10177-0899
Tel. No.: 212-681-0600

CERTIFICATE OF MAILING

The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date set forth below.

April 12, 2005


Dennis M. Flaherty